

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Tuesday, August 1, 2006

Division One

A111102 – The People v. Charles Robert Wills.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P. J., Stein, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Tuesday, August 1, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Margulies, J. and P. Aguilar, Deputy Clerk.

- A108849 Santa Venetia Center for the Arts and Humanities
v.
San Rafael Unified School District
Cause called and argued by Claire Leary, counsel for appellant, and Marion McWilliams, counsel for respondent. Cause ordered submitted.
- A109286 Adelyn Tsu
v.
City and County of San Francisco
Cause called and argued by Michael Kinane, counsel for appellant, and Karen Kirby, counsel for respondent. Cause ordered submitted.
- A111215 Michael Stratford
v.
John Botros et al.
Cause called and argued by Daniel Johnson, appellant, and Anne O’Niell, counsel for respondents. Cause ordered submitted.

Continued

- A111823 Alliance Financial Capital, Inc.
 v.
 Jennifer Moore et al.
 Cause called and argued by James Seymour, counsel for appellants, and Susan
 Handelman, counsel for respondent. Cause ordered submitted.
- A112311 California Correctional Peace Officers' Association
 v.
 State of California, Department of Personnel Administration
 Cause called and argued by Ronald Yank, counsel for appellant, and Wendi Ross,
 counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Tuesday, August 1, 2006

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., Margulies, J. and P. Aguilar, Deputy Clerk.

- A109574 In re the Marriage of Laura Nordstrom and W. David Tallmadge
 W. David Tallmadge
 v.
 Laura Nordstrom
 Cause called and argued by Garrett Daily, counsel for appellant, and Jay
 Borgman, counsel for respondent. Cause ordered submitted.
- A111414 Helen Williams
 v.
 BRE Properties, Inc.
 Cause called and argued by Ron Bochner, counsel for appellant, and Robert
 Brundage counsel for respondent. Cause ordered submitted.
- A112291 The Villas-Walnut Creek et al.
 v.
 CEC Engineering International, Inc.
 Cause called and argued by Robert Seeds, counsel for appellants, and Jane Curran
 Pandell, counsel for respondent. Cause ordered submitted.

Court adjourned until August 2, 2006.

Tuesday, August 1, 2006 (continued)

Division Two

A111762 – Kevin Smith, et al., v. Joanne Hayes-White, et al.

The judgment dismissing appellants' petition without leave to amend is affirmed. Costs on appeal are awarded to respondent. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Division Three

A111879 – The People v. Efrain Aguilera Gonzalez.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Division Four

A110806 – The People v. Jose Menchaca.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Wednesday, August 2, 2006

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., Swager, J. and F. Abad, Deputy Clerk.

Counsel for appellant is not present for oral argument. Justice Marchiano passed over the first case on calendar.

A109762 Estate of Gertrude C. Daley.
Gregory P. O’Keeffe, et al.,
v.
Ronald Daley, et al.
Cause called and argued by Matthew Cohen, counsel for appellant Carolyn Daley, Ronald Daley, appellant in propria persona, Daniel Conrad, counsel for respondent Gregory O’Keeffe, Mark Mosley, counsel for respondents John Tom, et al., and Patrick Coyle, counsel for respondents Philip Daley, et al. Cause ordered submitted.

A112230 People,
v.
Alva Baum
Cause called and argued by Robert Condie, counsel for appellant, and Grey Dogle, counsel for respondent. Cause ordered submitted.

Justice Stein left the bench and Justice Margulies joined the bench.

A109834 Emile Canning, et al.,
v.
City and County of San Francisco.
Cause called and argued by Janis Grattan, counsel for appellants, and Kathleen Morris, counsel for respondent. Cause ordered submitted.

A112619 Alette Temple, et al.,
v.
Nancy Hurwitz Kors
Cause called and argued by Gary Garfinkle, counsel for appellant, and Kenneth Van Vleck, counsel for respondents. Cause ordered submitted.

Court Adjourned

Wednesday, August 2, 2006 (continued)

Division Five

A106925 – The People v. Andre Darnell McClendon.

The judgment of conviction is affirmed. Reardon, J.* We Concur: Jones, P.J., Simons, J.
(Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, August 3, 2006

Division One

A112267 – Timothy H. Anderson v. Rosario Ingargiola et al.

The order enforcing the bond is affirmed. The motion for sanctions is denied. Defendants are entitled to their costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Four

A111305 – The People v. Marvin Mendez-Vincente.

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

Friday, August 4, 2006

Division One

A112255 – In re Jonathan B., a Person Coming Under the Juvenile court Law. The People v. Jonathan B.

The Attorney General concedes that the juvenile court erred in imposing conditions of probation because it committed appellant to the CYA. We agree. (See *In re Allen N.* (2000) 84 Cal.App.4th 513, 515-516.) The conditions of probation imposed by the court are stricken. In all other respects, the judgment (order committing Jonathan to CYA) is affirmed. The juvenile court is to amend its records accordingly and to forward copies of all such pertinent documents to the Director of CYA. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Two

A110385 – Theresa Kuhlman v. John Tjoelker.

The order appealed from is reversed and the cause remanded to the trial court for further proceedings not inconsistent with this opinion. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Division Three

A111760 and A112898 – In re Kiana J., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Donnelle M.

The orders entered following the 18-month and post-permanency review hearings are affirmed and the matter is remanded to the juvenile court with directions to direct the department to comply with the notice provisions of the ICWA. After proper notice under the ICWA, if Kiana is determined to be an Indian child and the ICWA applies to these proceedings, Donnelle may petition the juvenile court to invalidate orders which were entered in violation of title 25 United States Code sections 1911, 1912, and 1913. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

A113987 – William A. Wasson v. The Regents of the University of California.

The appeal is dismissed. Respondents shall recover costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

Friday, August 4, 2006 (continued)

Division Five

A108735 – The People v. Travell Brown.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Reardon, J.* (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, August 7, 2006

Division One

A109286 – Adelyn P. Tsu v. City and County of San Francisco et al.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A111414 – Helen Williams v. Bre Property Investors et al.

The appeal is dismissed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A112291 – The Villas-Walnut Creek et al., v. CEC Engineering International, Inc.

The judgment of the trial court is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

Division Three

A111726 – Parkwoods Community Association v. California Insurance Guarantee Association.

The judgment is reversed. The matter is remanded with instructions to vacate the judgment entered in favor of Parkwoods and to enter judgment in favor of CIGA. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Certified for Publication)

Division Five

A111349 – Eddie Tsang v. San Francisco Landmark Restaurant, Inc.

The judgment is affirmed. Respondent shall recover its costs on appeal. (Cal. Rules of Court, rule 27(a)(1), (2).) Reardon, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, August 8, 2006

Division One

A110124 – The People v. Clifton Terrell, Jr.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J.
(Certified for Publication)

Division Two

A103913 – The People v. Melrolando Warren.

The judgment is affirmed; the case is remanded for the trial court to consider and award any presentence credits to which Warren may be entitled. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication)

Division Three

A109572 – Harold Bowles v. Regents of the University of California.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A110973 – Employers Insurance Company of Wausau v. The Travelers Indemnity Company, et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A109079 – The People v. Manuel Castillo Cuevas.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A112696 – The People v. Guy Mitchell Ortiz.

Judgment affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 8, 2006

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Reardon, Acting P.J., Sepulveda, J.; and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A112802 Aran S. Diebel
 v.
 Department of Motor Vehicles
Cause called. Karen Donald argued for appellant Department. E. Michael Linscheid argued for respondent. Cause submitted.

A110847 People
 v.
 Lisa Nicole Lewis
Cause called. Douglass Charles MacMaster argued for appellant People. Susan Shors argued for respondent. Cause submitted.

At this point, the Court reconstituted itself to include Ruvolo, P.J., Reardon, J. and Sepulveda, J.

A109993 People
 v.
 Juan Vasquez Garcia
Cause called. David M. Martin argued for appellant Garcia. Mark Howell argued for respondent. Cause submitted.

A109826 Barbara J. Neisendorf
 v.
 Levi Strauss & Co. et al.
Cause called. Ted Pelletier argued for appellant Neisendorf. Margaret Edwards argued for respondents. Cause submitted.

A111843 In re Dixie E., a Minor.
Social Services Agency
v.
Corbin E.
Cause called. Mario DeSolenni teleargued for appellant Corbin E. Cause
submitted.

Court adjourned at 10:58 a.m.

Wednesday, August 9, 2006

Division One

A112230 – The People v. Alva Jacob Baum.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

A109925 – Renee Brown v. Chet Washington; San Francisco Department of Child Support Services, Intervener and Respondent.

The order setting aside the default judgment and the dissolution judgment is reversed. The cause is remanded to the trial court for further proceedings. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Three

A110896 – The People v. John Oscar Phillips.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

A109410 – The People v. Stevie Jackson.

The order revoking probation is vacated, and the matter is remanded to the trial court. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, August 9, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Pollak, J.; and B. Robbins, Deputy Clerk.

- A112227 In re Morgan M.
 The People,
 v.
 Morgan M.
Cause called and argued by H. Paul Swanson, counsel for appellant, and Oanh Tran, counsel for respondent. Cause ordered submitted.
- A112640 New United Motors Manufacturing, Inc.
 v.
 Workers' Compensation Appeals Board; John Gallegos.
Cause called and argued by James E. Bruscano, counsel for petitioner, and William S. Morris, counsel for respondent Gallegos. Cause ordered submitted.
- At this point in the proceedings, Justice Pollak left the bench and Justice Siggins joined the bench.
- A109329 Louis Milani, et al.,
 v.
 Mark Ottovich.
Cause called and argued by Gary L. Kaplan, counsel for appellant, and Louis Milani, counsel for respondents. Cause ordered submitted.
- A111456 Allen R. Simpson,
 v.
 Thomas Best.
Cause called. The court announced that it was verbally informed by appellant Simpson this morning that he would not be appearing at oral argument. Cause argued by Joanna L. Mishler, counsel for respondent. Cause ordered submitted.

A106630 Dovetail, Inc.

v.

Professional Childcare Management, Inc.

Cause called and argued by Robert W. Richardson, counsel for appellant, and
Thomas S. McConnell, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Wednesday, August 9, 2006 (continued)

Division Five

A110180 – Charles F. Oakley v. Katharine Ann Oakley.

The judgment is affirmed. Reardon, J.* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A108924 – Small Property Owners of San Francisco et al., v. City and County of San Francisco.

The judgment is modified to require appellants to provide notice of the judgment on their website. The judgment of notice by standard mail is stricken. As so modified, the judgment is affirmed. Each party shall bear its own costs on appeal. Reardon, J.* We Concur: Jones, P.J., Gemello, J. (Certified for Partial Publication)

A112417 – In re Delon W., a Person Coming Under the Juvenile Court Law. The People v. Delon W.

The juvenile court's jurisdictional and dispositional orders are affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A111690 – The People v. Christopher Michael Johnson.

The judgment is modified to specify that the two \$200 restitution fines under sections 1202.4 and 1202.45 are the fines previously imposed on June 25, 2002, rather than new fines. As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accord with this disposition and deliver it to the Department of Corrections. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A113756 – Lanecia M. v. The Superior Court of Contra Costa County; Contra Costa County Children and Family Services Bureau, R.P.I.

The petition is denied. Reardon, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, August 10, 2006

Division One

A111153 – Maurice Dunbar v. Albertson's Inc.

Certifying Opinion for Publication and no change in judgment. The Court: The opinion in the above-entitled matter filed on July 20, 2006, was not certified for publication in the Official Reports. After the court's review of requests under California Rules of Court, rule 978, and good cause established under rule 976, it is hereby ordered that the opinion should be published in the Official Reports. Marchiano, P.J.

A110178 – Snyder Trust Enterprises, a California partnership et al., v. Massimo Fuchs.

Order Modifying Opinion and no change in judgment. The Court: It is ordered that the opinion filed herein on July 25, 2006, be modified in the following particulars: (See Order) There is no change in the judgment. Marchiano, P.J. (Not for Publication)

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION TWO

Thursday, August 10, 2006

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Officer Rocha and S. Wheeler, Deputy Clerk.

A109571 Velma Z. Jacobson,
 v.
 Ahmed Ali, et al.
Cause called and argued by William Ruel Walker, counsel for appellant, and Robert John Hooy, counsel for respondents. Cause ordered submitted.

At this point of the proceedings, P.J. Kline left the bench and J. Lambden joined the bench for the remainder of the calendar.

A110649 The People,
 v.
 Willie James Bates.
Cause called and argued by Alan Siraco, counsel for appellant, and Allen R. Crown, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A107538 & Novartis Vaccines & Diagnostics Inc. fka Chiron Corporation,
A108292 v.
 Stop Huntingdon Animal Cruelty, USA, Inc.
Cause called and argued by Mark Allen Goldowitz, counsel for appellant, and Daniel Henry Bookin, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Lambden, J., Richman, J., Officer Strecker and S. Wheeler, Deputy Clerk.

A111617 Vernon Mouton,
 v.
 Director of the Department of Motor Vehicles.
Cause called and argued by Vernon Mouton, appellant in propria persona, and Terry A. Senne, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A107441 Kenneth Rhoades, et al.,
v.
R.M.B. Management Company.
Cause called and argued by Mary Patricia Sullivan, counsel for appellants, and
David Evan Harris and Earl L. Bohachek, counsel for respondent. Cause ordered
submitted.

A110663 The People,
v.
Donald Wiley Smith.
Cause called and argued by David S. Kreuger, via teleconference, counsel for
appellant, and Ronald E. Niver, Deputy Attorney General, counsel for respondent.
Cause ordered submitted.

COURT ADJOURNED.

Thursday, August 10, 2006 (continued)

Division Three

A111470 – Grosvenor Clift Associates v. Apollo Real Estate Investment Fund.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A110866 – In re the Marriage of Joan N. Holmes and Dean P. Holmes. Joan N. Helwer v. Dean P. Holmes.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

A112802 – Aran S. Deibel v. Department of Motor Vehicles.

The judgment is reversed in its entirety. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

A114068 – In re Kharee S., a Person Coming Under the Juvenile Court Law. Anetra S. v. The Superior Court of Alameda County; Alameda County Social Services Agency, R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14 *Kowis v. Howard* (1992) 3 Cal.4th 888, 894.) Petitioner is barred in any subsequent appeal from making further challenges to the orders terminating reunification services and setting a hearing under section 366.26. (§ 366.26, subd. (l); Cal. Rules of Court, rules 1435(b), 1436.5(c).) Because the section 366.26 hearing is set for September 14, 2006, our decision is final as to this court immediately. (Rule 24(a).) Jones, P.J. We Concur: Simons, J., Reardon, J.* (Not for Publication)

A112319 – Anthony Lamperti v. U.S. Bank et al.

The judgment is affirmed. As sanctions for a frivolous appeal, appellant's counsel, George McKray, shall pay to respondents \$11,125 within 15 days of the finality of this opinion. Respondents shall also recover their costs on appeal. Reardon, J.* We Concur: Jones, P.J., Simons, J. (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, August 11, 2006

Division One

A111147 – The People v. Antone Lee.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

Division Two

A109505 – The People v. Randy Erick Perkins.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication)

Division Three

A113457 – Susan L. Westbrook v. Rosemary Westbrook.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

A111602 – Aviation Data, Inc. v. American Express Travel Related Services Company, Inc., et al.

A114182 – William D. Hoffman, et al., v. American Express Travel Related Services Company, Inc., et al.

By the Court: Appeal number A114182 having been transferred to Division Three of this court, and upon stipulation of the parties, the above-referenced appeals are consolidated for purposes of briefing, oral argument, if any, and decision. Both appeal numbers shall appear on all documents filed in this court. Appellants' consolidated opening brief is due on or before August 14, 2006. Upon due consideration of the parties' stipulation for calendar preference, preference is denied without prejudice to reconsideration of an appropriate *motion* setting forth reasons why the appeals are statutorily entitled to preference. McGuinness, P.J.

Friday, August 11, 2006 (continued)

Division Four

A113933 – Jack O’Connell, as Superintendent of Public Instruction etc., et al., v. The Superior Court of Alameda County; Liliana Valenzuela et al., R.P.I.

Let a peremptory writ of mandate issue compelling respondent Alameda County Superior Court to vacate its May 12 order, insofar as that order granted a preliminary injunction. In the interests of justice, this decision shall be final immediately as to this court. (Cal. Rules of Court, rule 24(b)(3).) Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Certified for Publication)

Monday, August 14, 2006

Division One

A109828 – The People v. Anthony R. Drayton.

By the Court: The petition for rehearing is denied. Swager, Acting P.J.

A113303 – In re Angelo P., a Person Coming Under the Juvenile Court Law. The People v. Angelo P.

After review of the record, we find no issues warranting further briefing. Appellant was represented at all stages of the proceedings. Appellant's motion to suppress the evidence was properly denied. There is no error in the disposition proceedings or the court's order of commitment to the CYA. We find no meritorious issues to be argued. The order is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A108849 – Santa Venetia Center for the Arts and Humanities v. San Rafael Unified School District.

The appeal from the judgment is dismissed as untimely. The postjudgment orders are affirmed. Respondent School District is awarded its costs on appeal. The Artists and attorney Claire Leary shall each pay \$1,000 to the School District as sanctions, to be recovered by the School District as costs. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Three

A112673 – In re Liber R. Andrade, on Habeas Corpus.

By the Court*: The petition for rehearing is denied. McGuiness, P.J. *McGuiness, P.J. and Parrilli, J. concur in the decision. Pollak, J. would grant the petition for rehearing.

Division Five

A1108484 – The People v. Donnie Keith Means.

The probation condition requiring submission to alcohol testing as directed by the probation officer is ordered stricken. The judgment is otherwise affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

Tuesday, August 15, 2006

Division Two

A110663 – The People v. Donald Wiley Smith.

The trial court's order is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J.
(Not for Publication)

A112185 – Wes and Shirley Tilton, as Trustees, etc. v. Reclamation District No. 800 et al.

The judgment of dismissal is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J.
(Not for Publication)

A109548 – The People v. Friederike Kruse.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J.
(Not for Publication)

A109747 – The People v. Santos Mehrara.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J.
(Not for Publication)

A113960 – Steven L. v. The Superior Court of Sonoma County; Sonoma County Human Services Department, R.P.I.

The petition for writ of mandate is denied on the merits. (Welf. & Inst. Code § 366.26, subd. (l)(1)(C); Cal. Rules of Court, rule 39.1(i)(1); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) Our decision is final immediately. (Cal. Rules of Court, rule 24(b)(3).) Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication)

Tuesday, August 15, 2006 (continued)

Division Three

A113670 – People of the State of California v. Napoleon Brown.

A113761 – People of the State of California v. Napoleon Brown.

By the Court: Upon respondent's unopposed application, and good cause appearing, it is ordered that the appeals in docket numbers A113670 and A113671 be consolidated for purposes of briefing, oral argument, if any, and decision. Counsel for all parties are directed to list both appellate case numbers on all future pleadings. Requests for extensions of time, if any, will be determined on a case-by-case basis in accordance with California Rules of Court, rule 17. McGuiness, P.J.

A112640 – New United Motors Manufacturing, Inc. v Workers' Compensation Appeals Board and John Gallegos.

The order denying reconsideration is vacated, and the matter is returned to the WCAB with directions to grant reconsideration, to reverse its order imposing a 25 percent penalty against NUMMI, and to reconsider its award of attorney fees after further proceedings. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Certified for Publication)

A109216 – The People v. Martin Demment Royal.

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication)

A114185 – Gerald F. v. The Superior Court of Contra Costa County; Contra Costa County Children and Family Services Bureau et al., R.P.I.

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; § 366.26, subd. (1)(C); Cal. Rules of Court, rule 38.1(i)(1); *Kowis v. Howard* (1992) 3 Cal.4th 888, 893-895.) Because the section 366.26 hearing is set for August 29, 2006, our opinion is immediately final as to this court. (Cal. Rules of Court, rule 24(b)(3).) Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

Tuesday, August 15, 2006 (continued)

Division Five

A111787 – In re S. W., a Person Coming Under the Juvenile Court Law. The People v. S.W.

The judgment is affirmed. Jones, P.J. I Concur: Simons, J. (See dissenting opinion by Reardon, J.) (Not for Publication)

A111792 – The People v. Emilio Castro.

The judgment is affirmed. Bruiniers, J.* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A112278 – Kellie East-Bratt v. Wilma L. Fouke et al.

The judgment is affirmed. Bruiniers, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 16, 2006

Division Two

A112610 – In re Eric D., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Eric D.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication)

Division Five

A112861 – The People v. Anthony James McGowan.

The trial court is ordered to prepare and to forward to the appropriate authorities an amended abstract of judgment showing appellant is subject to \$200 restitution fine under section 1202.4, and a suspended \$200 parole revocation fine under section 1202.45. In all other respects, the order revoking probation is affirmed. Jones, P.J. We Concur: Gemello, J., Bruiniers, J.* (Not for Publication)

A110929 – The People v. Levell Wallace.

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Reardon, J.* (Not for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, August 17, 2006

Division One

A109834 – Emile Canning et al., v. City and County of San Francisco.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

Division Two

A112268 – James Clayworth, et al., v. Johnson & Johnson, Inc.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A110448 – The People v. Steven Bahr.

Defendant's judgment of conviction is reversed, and the case is remanded for further proceedings in accordance with the above. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication)

Division Five

A112122 – The People v. Shannon Verketis.

The judgment is reversed and remanded with directions to conduct a hearing pursuant to section 1202.4, subdivision (f) to determine the amount of restitution that defendant shall make to the victim and to reduce the restitution fine to \$200. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

Friday, August 18, 2006

Division One

A109303 – Ernesto Mendoza v. Glenn Brodeur.

The judgment of dismissal following the order granting the motion for summary judgment is reversed. The cause is remanded for further proceedings consistent with this opinion. We express no opinion on the merits of plaintiff's action in tort. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication)

Division Two

A108697 – California Consumer Health Care Council v. Kaiser Foundation Health Plan, Inc.

By the Court: The opinion in the above-entitled matter filed on July 25, 2006, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered. Haerle, Acting P.J.

A109154 – The People v. Delano Currie.

The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

Friday, August 18, 2006 (continued)

Division Three

A111456 – Allen R. Simpson v. Thomas Best.

The judgment is affirmed. Costs are awarded to Respondent. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

A112196 – The People v. Romel Ivan Wilson.

We remand the case to the trial court with directions to remove the requirement that defendant register as a sex offender pursuant to subdivision (a)(1)(A) of section 290, to determine whether defendant is subject to discretionary registration pursuant to subdivision (a)(2)(E) of section 290, and, if so, to exercise its discretion whether to require defendant to register under that provision. In all other respects the judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

A112924 – In re Justin G., a Person Coming Under the Juvenile Court Law. The People v. Justin G.

The order of the juvenile court is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

A112227 – In re Morgan M., a Person Coming Under the Juvenile Court Law. The People v. Morgan M.

The judgment is affirmed. McGuiness, P.J. We Concur: Parrilli, J., Pollak, J. (Not for Publication)

A109329 – Louis Milani et al., v Mark Ottovich.

The judgment is reversed. The cause is remanded to the trial court with directions to vacate the default and default judgment and to allow Ottovich a reasonable time to file responsive pleading to the first amended complaint. The parties shall bear their own costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication)

Division Four

A111525 – The People v. Eric William Johnson.

The judgment (probation minute order) is modified to reflect a total probation supervision fee of \$200. As so modified, the judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

Friday, August 18, 2006 (continued)

Division Five

A112455 – The People v. Mary E. Poteate.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Bruiniers, J.* (Not for Publication)

A111658 – In re K.G. and N.G., Persons Coming Under the Juvenile Court Law. Lake County Department of Social Services v. Tonia B.

The order is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A111725 – In re Luis M., a Person Coming Under the Juvenile Court Law. The People v. Luis M.

The matter is remanded to the juvenile court with directions to exercise its discretion in setting defendant's maximum term of confinement, pursuant to section 731, subdivision (b). The juvenile court orders are otherwise affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A109293 – Gene Bennett et al., v. Laci Le Beau Corporation, et al.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, August 21, 2006

Division One

A111788 – In re D.W., a Person Coming Under the Juvenile Court Law. The People v. D.W.

The order is affirmed. Stein, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A112230 – The People v. Alva Jacob Baum.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

Division Two

A112661 – Michael Ray v. Barbara Goodman et al.

The judgment is reversed and cause remanded to the trial court with instructions to amend the judgment to add interest to it at the statutory rate from the date of plaintiff's first section 998 offer to the date of his second such offer. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication)

Division Three

A106630 – Dovetail, Inc. v. Professional Childcare Management, Inc.

The judgment of the trial court is affirmed. Siggins, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication)

Division Four

A110847 – The People v. Lisa Nicole Lewis.

The judgment is reversed and the verdict rendered by the jury is reinstated. The matter is remanded to the trial court for further proceedings consistent with this opinion. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication)

Monday, August 21, 2006 (continued)

Division Five

A110371 – The People v. Wayne Selu.

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Bruiniers, J.* (Not for Publication)

A110344 – The People v. Armando Granados.

The trial court's order dismissing the charges against defendant is reversed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A111937 – The People v. Steven Lawrence Lopez.

The judgment is affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication)

A112490 – The People v. Tyrone Lashawn Hall.

The judgment of conviction is affirmed. Appellant's sentence as to count two is stricken. The superior court is directed to amend the abstract of judgment accordingly and to forward a certified copy of the amended abstract to the Department of Corrections. Reardon, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

A110995 – In re Frank S., a Person Coming Under the Juvenile Court Law. The People v. Frank S.

The juvenile court's orders are affirmed. Gemello, J. We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, August 22, 2006

Division One

A109574 – In re the Marriage of Laura N. and W. David T. Laura N. v. W. David T.

The appeal from the orders of February 25, 2004, is dismissed. The appeal from the orders of August 25, 2004, is dismissed. The appeal from the orders of October 25, 2004, is dismissed. The appeal from orders 5, 6, 7, and 9 issued on February 14, 2005, are deemed abandoned. Husband's appeal from orders 3 and 4, issued on February 14, 2005, has been considered, and those orders are affirmed. Wife is entitled to her appellate costs. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A112849 – In re M.D., a Person Coming Under the Juvenile Court Law. Contra Costa County Children and Family Services Bureau v. David D.

The appeal is dismissed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A113103 – The People v. Keith Spencer Smith.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A111994 – In re Miles C., a Person Coming Under the Juvenile Court Law. The People v. Miles C.

We remand the matter to the juvenile court with directions to amend its August 18, 2005 jurisdictional findings in accordance with the views expressed in this opinion. In all other respects, we affirm the judgment. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A112260 – In re T.P., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Levi P.

The juvenile court's dispositional order is reversed. The matter is remanded to the juvenile court with directions that it (1) investigate the possibility that minor is an Indian child; (2) if appropriate, give notice under ICWA; and (3) hold a new dispositional hearing. If the court determines at the dispositional hearing that ICWA notice was proper and no Indian tribe seeks to intervene or otherwise has indicated that minor is an Indian child as defined by ICWA, the court shall reinstate its jurisdictional findings and dispositional order. If, on the other hand, an Indian tribe determines that minor is an Indian child under ICWA, the court shall conduct the jurisdictional, dispositional, and all subsequent hearings in accordance with ICWA and applicable state law. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Tuesday, August 22, 2006 (continued)

Division Two

A112508 – The People v. Cory Eugene English.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J.
(Not for Publication)

Division Three

**A110898 – In re Miciah J., a Person Coming Under the Juvenile Court Law.
Sonoma County Human Services Department v. Richard J.**

The order of the juvenile court is affirmed. Parrilli, J. We Concur: Siggins, J.,
McGuiness, P.J. (Not for Publication)

A113547 and A114389 – Donald Carmignani, et al., v. Kenneth A. Paganini, et al.

By the Court: Pursuant to stipulation of the parties, the above-referenced appeals are consolidated for purposes of briefing, oral argument, if any, and decision. Both appeal numbers shall appear on all documents filed in this court. Appellants' consolidated opening brief shall be due 30 days after the records have been filed in both appeals. McGuiness, P.J.

Division Four

A109674 – Frances T. Hayes v. Ernest R. Cordova.

A111443 – Frances T. Hayes v. Ernest R. Cordova.

The judgment against Cordova is affirmed. The postjudgment order denying attorney fees to Hayes is affirmed. Each party shall bear his or her own costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

A113290 – The People v. Isiaia Johnson-Marin.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Tuesday, August 22, 2006

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Reardon, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

- A109054 In re Sierra M.
Social Services Agency
v.
Jill M.
Cause called. Kathleen Morgan argued for appellant Jill M. S. Lynne Klein teleargued for minor Sierra M. No appearance for respondent Agency. Cause submitted.
- A113590 Sonoma State University et al.
v.
Workers' Compensation Appeals Board
Lesley Hunton
Cause called. Anne Hernandez argued for petitioners Sonoma et al. James Kneisler teleargued for respondent. Cause submitted.

Court adjourned at 9:59 a.m.

Wednesday, August 23, 2006

Division One

A112311 – California Correctional Peace Officers Association v. State of California et al.

The order of the trial court is reversed. The matter is remanded for entry of an order granting the Union's petition and compelling arbitration of the Union's grievances under the MOU. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Certified for Publication)

A109358 – The People v. Timothy Arthur.

The judgment is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication)

A112685 – The People v. Robert Blake Curtis.

Throughout the proceedings, defendant was represented by counsel. There was no sentencing error. We find no arguable issues that require further briefing and accordingly, affirm the judgment. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A112441 – Tania Maria Leite v. Erik Lamas.

The order appealed from is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Three

A109410 – The People v. Stevie Jackson.

Order Modifying Opinion and no change in judgment. The Court: It is ordered that the opinion filed herein on August 9, 2006, be modified as follows: (See Order) We vacate the order revoking probation and imposing incarceration, and remand for further proceedings. There is no change in the judgment. McGuiness, P.J. (Not for Publication)

Wednesday, August 23, 2006 (continued)

Division Five

A108335 – The People v. Hoang Van Pham.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

A110192 – The People v. Curtis Alan Hepner.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication)

Thursday, August 24, 2006

Division One

A110844 – The People v. Anthony William Turnbull.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A112839 – In re Luis B., a Person Coming Under the Juvenile Court Law. The People v. Luis B.

The error requires that we set aside the findings and dispositional orders, and remand the case to the juvenile court for further proceedings in compliance with sections 790 et seq., and rule 1495. If, as a result of those proceedings, the juvenile court grants DEJ to defendant, it shall issue an order vacating the findings and orders. If the juvenile court denies DEJ to defendant, it shall make its order continuing in effect the judgment, subject to defendant's right to have the denial of DEJ and the findings and orders reviewed on appeal. (See *People v. Dias* (1979) 100 Cal.App.3d 464, 470.) Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

Division Three

A113736 – Tanya G. v. The Superior Court of Contra Costa County; Contra Costa County Children and Family Services Bureau.

The petition for extraordinary relief is denied on the merits. (Cal. Const., art. VI, § 14; § 366.26; Rules 38.2, 38.3; see *Kowis v. Howard* (1992) 3 Cal.4th 888, 893-895.) Because the next review hearing is set for August 30, 2006, our opinion is immediately final as to this court. (Rule 24(b)(3).) McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

A111125 – The People v. Tracy Gene James.

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication)

Thursday, August 24, 2006 (continued)

Division Four

A110823 – Valent U.S.A. Corporation et al., v. Stop Huntingdon Animal Cruetly, USA, Inc. etc.

The order is affirmed. The matter is remanded to the trial court for further proceedings consistent with this opinion. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication)

A113347 – The People v. Marvin Frank Stevenson.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

Division Five

A114411 – In re William W. and Alvretta G., Persons Coming Under the Juvenile Court Law. Randall G. v. Mendocino County Superior Court; Mendocino County Department of Social Services, R.P.I.

The writ petition is denied. The request for stay of the section 366.26 hearing on October 11, 2006, is denied. This decision shall be final as to this court in five court days. (Cal. Rules of Court, rule 23(b)(3).) Gemello, J. We Concur: Jones, P.J., Bruiniers, J.* (Not for Publication)

A111798 – The People v. Jason Sandefur.

The judgment is affirmed. Bruiniers, J.* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, August 25, 2006

Division One

A112440 – The People v. Ivan Reyes.

The trial court's judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication)

A112746 – The People v. Antonio Renteria.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A111173 – The People v. Charles Henry Bracey.

The judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A113507 – The People v. William Nitschke.

Accordingly, we remand the case with directions to strike or impose the enhancements. In all other respects, the judgment is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

A110649 – The People v. Willie J. Bates.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication)

Division Three

A111796 – The People v. Alfredo Barriga Arias.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication)

Division Four

A110491 – The People v. Luis Mario Gil-Corral.

The judgment is affirmed. Rivera, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication)

Friday, August 25, 2006 (continued)

Division Five

A108772 – The People v. Elvis Murcia.

We affirm. Simons, J. We Concur: Jones, P.J., Reardon, J.* (Not for Publication)

A110946 – John Wright Mills v. Ken Betts, Inc.

The judgment is affirmed. Jones, P.J. We Concur: Gemello, J., Bruiniers, J.* (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, August 28, 2006

Division One

A110047 – In re the Marriage of David H. and K.S. David S. v. K.S.

By the Court: Appellant's petition for rehearing and third request to augment the record are denied. Marchiano, P.J.

Division Two

A111432 – The People v. Kevin Leonard May.

The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication)

A112104 and A111128 – Intagio Trading Network, Inc. v. Blackstocks Investments, Inc., et al.

The appeal is dismissed as to the following corporate defendants: Blackstocks Investments, Inc. (a Virginia corporation); Blackstocks Investments, Inc. (a Delaware corporation); Urban Media Development Corporation (a Delaware corporation); Moneymail.com, Inc. (a Delaware corporation); Blackstocks Development Corporation (a Delaware corporation); and New Media, Inc. (a Delaware corporation). Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication)

A107426 – The People v. Loida Cruz.

The judgment is affirmed. Haerle, J. I Concur: Lambden, J. (See concurring opinion by Kline, P.J.) (Not for Publication)

Division Three

A109205 – The People v. Anthony Matteucci.

The judgment is affirmed. We remand for the trial court to modify the abstract of judgment to reflect counts two, five and six are stayed pursuant to section 654. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

Monday, August 28, 2006 (continued)

Division Five

A112221 – In re Timothy B., a Person Coming Under the Juvenile Court Law. The People v. Timothy B.

The dispositional order is affirmed. Gemello, J. We Concur: Jones, P.J., Bruiniers, J.*
(Not for Publication)

A112273 – Sylvester Okoro v. City of Oakland et al.

The judgment of the court, sustaining respondents' demurrer to all causes of action against Olivas and Ausmus, is reversed. The respondents' request for judicial notice filed May 23, 2006 is granted. The parties shall bear their own costs. Reardon, J.* We Concur: Jones, P.J., Simons, J. (Certified for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, August 29, 2006

Division One

A112619 – Alette Temple et al., v Nancy Hurwitz Kors.

The order denying Kors's motion for an award of attorney fees is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication)

A098073, A100745 and A104701 – Margie McRae v. Department of Corrections and Rehabilitation.

A098330 and A098910 – Margie McRae v. Bruce Wiltse et al.

The judgment, therefore, is reversed. The orders awarding Dr. McRae postjudgment and prejudgment attorney fees are reversed. The order awarding costs to the individual defendants is affirmed. The matter is remanded to the trial court to award costs to the Department, to the extent that those costs are not duplicative of costs already awarded to the individual defendants. The defendants are awarded their costs on appeal. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Certified for Publication)

A107186 – The People v. Ralph A. Cendejas, Jr.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A112080 – In re Timothy C., a Person Coming Under the Juvenile Court Law. The People v. Timothy C.

The judgment sustaining the petition and the placement decision are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Monday, August 29, 2006 (continued)

Division Three

A106916 – The People v. Leonard C. Jones.

The judgment is affirmed. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Not for Publication)

A108464 – The People v. Michael Benjamin Nordlof.

The judgment is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication)

A112385 – Paul Palmer v. City of Oakland.

A112211 – City of Oakland v. Paul Palmer.

Upon the court's own motion, the interests of judicial economy, and good cause appearing, it is ordered that the above-captioned appeals in docket numbers A112385 and A112211 be consolidated for purposes of oral argument and decision. McGuiness, P.J.

A109062 – Dwight Patrick Reilly, as Trustee, etc. v. City and County of San Francisco.

The judgment is affirmed. Respondent shall recover its costs on appeal. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Certified for Publication)

A110704 – Kenneth Massa v. Allen J. Ruskin.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication)

Monday, August 29, 2006 (continued)

Division Four

A113590 – Sonoma State University and Octagon Risk Services v. Workers’ Compensation Appeals Board and Lesley Hunton.

The award of workers’ compensation benefits is annulled, and the matter is remanded to the WCAB with directions to enter an order denying such benefits. The parties shall bear their own costs in the proceedings before this court. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Certified for Publication)

A111694 – The People v. Archie Ray Tate.

The judgment is affirmed. Rivera, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication)

A109826 – Barbara J. Neisendorf v. Levi Strauss & Co. et al.

The judgment is affirmed. Costs on appeal are awarded to LS&Co. Ruvolo, J. We Concur: Reardon, J., Rivera, J. (Not for Publication)

A113309 – The People v. Tommy Neal Davis.

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication)

A111843 – In re Dixie Lee E., a Person Coming Under the Juvenile Court Law. Solano County Health and Social Services Department v. Corbin E.

The order terminating parental rights is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication)

Tuesday, August 30, 2006

Division One

A110536 – Jim Petropoulos v. Department of Real Estate.

The judgment is reversed and the matter is remanded to the trial court with directions to issue a peremptory writ of mandate. Margulies, J. I Concur: Stein, J. (See concurring opinion by Marchiano, P.J.) (Certified for Publication)

A113732 – The People v. Tiu Ogbemudia.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A114425 – Garry C. v. Superior Court of Alameda County; Alameda County Social Services Agency et al., R.P.I.

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14 *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) This decision is final in this court immediately. (Rule 24(b)(3).) Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A110124 – The People v. Clifton J. Terrell, Jr.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Tuesday, August 30, 2006 (continued)

Division Two

A105421 – Joy Road Area Forest and Watershed Association v. California Department of Forestry & Fire Protection; Harmony Forest & Land Company, LLC., R.P.I.

The judgment is remanded to the trial court with directions to modify its order in two respects: First, to note that there is substantial evidence to support CDF's ultimate finding regarding the effect of fog drip but that evidence does not "cure" the defect in the THP itself which failed to adequately address this issue; and, second, to note that CDF abused its discretion by failing to comply with CEQA's notice and recirculation requirements after adding significant new information to the THP about the NSO and by failing to follow its own regulations for protecting this endangered specie. In all other respects, the judgment of the superior court issuing a peremptory writ of mandate compelling CDF to rescind its approval of THP 219 is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Certified for Publication)

A111829 – The People v. Joseph Anthony Francis.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication)

A107441 – Kenneth Rhoades et al., v. R.M.B. Management Company, Inc. et al.

Plaintiffs' appeal is dismissed as moot. Defendants are awarded costs. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication)

Division Three

A109056 – The People v. Shannon J. Pulley.

A112586 – In re Shannon J. Pulley, on Habeas Corpus.

The judgment is affirmed. The petition for writ of habeas corpus is denied. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

A112003 – Stan Brodie v. Workers' Compensation Appeals Board, Contra Costa County Fire Protection District et al.

The Board's order denying reconsideration is annulled, and the matter is returned to the Board with directions to grant reconsideration, reversed the WCJ's order, and recalculate the amount of permanent disability benefits due Brodie in accordance with the method described in this opinion. Siggins, J. We Concur: Parrilli, Acting P.J., Pollak, J. (Certified for Publication)

A112793 – The People v. Daniel Luis Magana, Jr.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication)

Tuesday, August 30, 3006 (continued)

Division Five

A098920 – Ailanto Properties, Inc. v. City of Half Moon Bay et al.

The trial court's judgment with respect to Ailanto's first and second causes of action is affirmed. Its judgment with respect to Ailanto's third cause of action is reversed. Defendants City of Half Moon Bay and City Council of the City of Half Moon Bay are awarded costs on appeal. Simons, Acting P.J. We Concur: Gemello, J., Reardon, J.* (Certified for Publication)

A108751 – The People v. Tremayne Collier.

The judgment is affirmed. Bruiniers, J.* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A106142 – The People v. Ivan Kilgore.

The judgment is affirmed. Reardon, J.* We Concur: Jones, P.J., Gemello, J. (Not for Publication)

A111824 – The People v. Avery O. James.

The judgment is affirmed, with the exception that the \$1,000 restitution fine is stricken. This matter is remanded to the trial court solely for the purpose of correction of the abstract of judgment, and the forwarding of a corrected abstract to the Department of Corrections. Bruiniers, J.* We Concur: Simons, Acting P.J., Gemello, J. (Not for Publication)

A110477 – The People v. Troy Anderson.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, August 31, 2006

Division One

A111765 – In re Eric E., a Person Coming Under the Juvenile Court Law. The People v. Eric E.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication)

A112860 – The People v. Anthony R. Walker.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

A112901 – The People of the State of California v. Patrick R. Harper.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication)

A113139 – The People v. Kathryn M. Strong.

The order denying the motion to modify the conditions of probation is affirmed. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication)

Division Two

A112199 – The People v. Anthony William Thomson.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication)

A112010 – In re C.G., et al., Persons Coming Under the Juvenile Court Law. Solano County Department of Health and Social Services v. Mary G., et al.

The orders of the juvenile court terminating appellants' parental rights to Z.G. and C.G. are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication)

Wednesday, August 31, 2006 (continued)

Division Three

A113069 – The People v. Elton Flenaugh.

The judgment is affirmed. McGuiness, P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication)

A107139 – Rodney H. Medeiros et al., v. Leslie A. Johnson et al.

A107372 and A107373 – Rodney H. Medeiros et al., v. Leslie A. Johnson et al.

The judgment and the trial court orders dated May 5, 2004, and July 22, 2004, which are the subject of these appeals, are affirmed. The parties shall bear their own costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication)

Division Five

A112421 – In re Tuiofu S., a Person Coming Under the Juvenile Court Law. The People v. Tuiofu S.

The order denying the application for rehearing is vacated. The matter is remanded to allow the juvenile court to reconsider the application de novo, in accordance with the views expressed herein. Bruiniers, J.* We Concur: Jones, P.J., Simons, J. (Not for Publication)

A110056 – Suzanne M. Valente v. Unumprovident Corporation et al.

The judgment is reversed and the case is remanded to the trial court for further proceedings on the issue of punitive damages. Appellant shall recover the costs on appeal. Jones, P.J. We Concur: Gemello, J., Reardon, J.* (Not for Publication)

A112607 – In re Carl H., a Person Coming Under the Juvenile Court Law. The People v. Carl H.

The disposition is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication)

* Judge of the Superior Court of Contra Costa County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of Alameda County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.